

A3 respect to each other, said rear edge being maintained substantially at a height of the fixed roof skin at least until a last section of the longitudinal displacement.

A4 9. (Amended) The motor vehicle roof of claim 8, wherein the roof has a retractable sunshade covering for the underside of the two covers.

REMARKS

By the above actions, the claims 1 and 9 have been amended. Additionally, accompanying this Amendment is an Information Disclosure Statement providing prior art cited in connection with a counterpart European Patent Application and a new set of drawings under a separate cover letter. In view of these actions and the following remarks, reconsideration of this application is now requested.

With regard to the Examiner's objection to the drawings, a schematic depiction of the lateral guides (guide tracks G) of claims 6 & 7 have been added to the figures consistent with the original disclosure. On the other hand, the Examiner's requirement to illustrate the mechanisms for producing the claimed movements is considered to be inappropriate since no "mechanism" is claimed for producing the movement of the front and rear roof covers, and since the drawing figures do show every feature presently claimed as is required by Rule 1.83(a), the claimed movements of the front and rear roof covers being fully represented in Figs. 3A-3C and 2A-2D, respectively. The particular means to produce the recited movements is not the invention as those skilled in the art will know numerous techniques for doing so, and thus, such mechanisms have not been claimed and need not be shown. Accordingly, withdrawal of this requirement is requested.

Original claims 2-7 were rejected under 35 U.S.C. § 112, first paragraph as being based on an inadequate disclosure. However, applicant takes issue with that assessment. The drawings and the descriptions of how the cover is moved between those positions that are contained in the "Detailed Description" which include the description of how and when each cover is moved along guide rails or cover guides so as to be raised and lowered together with a swing-in mechanism would, given the state of the art, be sufficient to those of ordinary skill in the art to enable them to make and use the invention. In this regard, it is pointed out that the BMW reference applied by the Examiner shows that such mechanisms are known, and it would taken no undue experimentation to merely modify the guide and swing mechanism of

the BMW roof, changing, e.g., the location at which the rear edge of the rear cover is lowered from the beginning of the forward displacement of the rear cover (as occurs in the BMW roof) to near the end thereof as disclosed by applicant and set forth in claim 2, in order to adapt such a mechanism for use with the present invention. In this regard, it has been noted that the Examiner has not found claim 1 to be based on an inadequate disclosure, yet the only real difference between claims 1 & 2 is that claim 1 does not specify which of the two covers is displaced and claim 2 indicates that it is the rear cover that is moved and lowered at the end of its movement. However, given the fact noted above that the BMW reference longitudinal moves and lowers the rear panel, it is not understood why the features of claims 2 et seq. should be found to be inadequately disclosed while the subject matter of claim 1 was recognized as being adequately supported by the specification. Therefore, given the foregoing and the fact that the specification need only be written to the level of those skilled in the art without have to incorporate that which is know to such persons, reconsideration and withdrawal of the § 112, first paragraph rejection is in order and is requested.

Original claims 2, 6, 7, & 9 were rejected under 35 U.S.C. § 112 as being indefinite. However, since the above amendments to claims 1 & 9 correct the deficiencies noted by the Examiner, withdrawal of this rejection is also in order and now requested.

Claim 1 stands rejected under 35 U.S.C. § 102 as being anticipated by the BMW reference while claims 8 & 9 have been rejected under 35 U.S.C. § 103 as being unpatentable in view of this reference. This rejection is inappropriate since it appears to be based on an incorrect assessment of the disclosure of the BMW reference.

In particular, the Examiner has made reference to Fig. 4 of the BMW reference as supposedly showing that the rear edge of the rear cover 2 is maintained at a roof skin height throughout the displacement. However, Fig. 4 does not contain such a showing and the disclosure of the BMW reference makes it clear that the rear edge of the rear cover 2 is lowered when the forward movement is initiated. In this regard, the Examiners attention is directed to the accompanying Information Disclosure Statement and the European Patent Application 0 447 781 cited therein which, as can be ascertained from priority (Priorität) item 30 is the counterpart to the BMW reference relied upon by the Examiner (DE 4008145). This European counterpart contains English language claims on pages 9-11 of the B1 version

thereof, claim 21 of which is of particular relevance to what is shown in Fig. 4 as is the guide mechanism for the rear edge of the rear cover 2 shown in Fig. 12.

Firstly, with regard to the showing of Fig. 4, if the Examiner will compare Fig. 4 with the closed position shown in Fig. 1 and the position of Fig. 2 where the front edge of the rear cover has been lowered, it can be seen that, in the closed position, the roof skin height represented by a dot-dash line is not visible in the closed position of Fig. 1, becomes visible at the front of the rear cover 2 in Fig. 2, and is visible along the full length of the rear cover 2 in the of Fig. 4. Thus, Fig. 4 shows that the rear edge of the cover has been lowered and is not at the height of the roof skin. However, more telling is what is described in claim 21 and is shown in Fig. 12. Claim 21 (taken together with claim 20 from which it depends) clearly indicates that the rear end of the rear panel 2 is supported by a rocking lever that is pivotably connected to the rear panel at one end and to a rear carriage 33 at the other end. Furthermore, a pin 35 extends from the rocking lever or the cover and engages a roof-mounted guide track 36 that "at least in an initial region ... extends forwards and downwards." The result of this arrangement is readily apparent from Fig. 12 where it can be seen that movement of the rear cover 2 forward will, at the outset, cause the rear edge of the cover to be lowered since pin 35 will move down the guide track 36 swinging the lever 32 from its vertical position about the axis 34 at the rear carriage 33. The same result occurs with the described alternative where the guide track is carried by the cover 2 and the lever is guided in it by a pin since the pin will pull the cover down as it moves up an upward and forward sloping track on the cover.

Thus, since the BMW reference does not teach that the rear edge of the rear cover is "maintained substantially at a height of the fixed roof skin at least until a last section of the longitudinal displacement" as set forth in claim 1 and such is certainly not the case for the BMW front cover which is raised at its rear edge before being displaced longitudinally, the basis for the Examiner's rejection does not exist and the rejections built on this nonexistent foundation must be withdrawn, such action being requested.

The prior art which has been cited but not applied by the Examiner has been taken into consideration during formulation of this response. However, since this art is not any more relevant than that relied upon by the Examiner and was not considered by him to be of sufficient relevance to applied against the original claims, no detailed discussion thereof is

believed warranted at this time. Likewise, the art cited with the accompanying Information Disclosure Statement does not affect the patentability of the claims and require no detailed comment beyond that set forth above relative to the European counterpart of the cited BMW reference.

While the present application is now believed to be in condition for allowance, should the Examiner find some issue to remain unresolved, or should any new issues arise, which could be eliminated through discussions with applicant's representative, then the Examiner is invited to contact the undersigned by telephone in order that the further prosecution of this application can thereby be expedited.

Lastly, it is noted that a separate Extension of Time Petition accompanies this response along with a check in payment of the requisite extension of time fee. However, should that petition become separated from this Amendment, then this Amendment should be construed as containing such a petition. Likewise, any overage or shortage in the required payment should be applied to Deposit Account No. 19-2380 (740123-351)

Respectfully submitted,

By: 

David S. Safran
Registration No. 27,997

NIXON PEABODY LLP
8180 Greensboro Drive, Suite 800
McLean, Virginia 22102

Telephone: (703) 770-9300

Mark-up Showing Amendments Made

In the Specification:

Please amend paragraph no. [0021] as follows:

[0021] A motor vehicle roof (see Figure 1), in a fixed roof skin 10, has a roof opening 11 which extends from near the front edge 12 of the roof skin 10 to near the rear edge 13 of the roof skin 10. On the bottom of the roof skin 10, a frame (not shown) is attached which, on either side of the roof opening 11, has guide rails G in which the front cover 14 and the rear cover 15 are supported to be able to move. Furthermore, the two covers 14, 15 are each provided with a swing-in mechanism (not shown) by which the front cover 14 and the rear cover 15 may be lowered at their front edges 16, 17 relative to the respective rear edges 18, 19 into the ventilator positions (see Fig. 2B & Fig. 3B). For their swinging motion and their displacement motion along the guide rails, the covers 14, 15 are each driven by its own drive 20, 21 which are attached to the front and rear transverse parts 22, 23 of the roof frame and which may be made in the known manner as an electric motor with a driving pinion and compressively-stiff drive cables. The covers 14, 15 are preferably transparent and are especially glass covers.

Please amend paragraph no. [0024] as follows:

[0024] In order to move the rear cover 15 into its open position in which it clears the rear section 25 of the roof opening 11, the rear cover 15 is pushed forward out of its obliquely oriented or tilted ventilator position (see Figure 2B) while this oblique position is maintained by the drive 21 (see Figure 2C), the rear edge 19 of the rear cover 15 is moved by side cover guides G [(not shown)] along the roof contour while the front edge 17 of the cover is moved forward with an essentially uniform distance relative to the front cover 14. When the rear edge 19 of the rear cover 15 has approached the rear edge 18 of the front cover 14 to a certain distance, the rear edge 19 of rear cover 15 is moved down by the cover guides G in a downward motion which may take place, for example, in steps according to the representation of the arrow 27 (see Figure 2D), so that the rear cover 15 is aligned roughly parallel to the front cover 14. In this parallel alignment, the rear cover 15 may traverse the last section of its path of motion or displacement into its final open position under the front cover 14. This ensures that the rear cover 15, when being opened, remains largely in its

upper position which is as close as possible to the roof contour so that its distance relative to a rear seat passenger remains as great as possible and the passenger's head space is restricted as little as possible. Closing motion of the rear cover 15 takes place in the opposite sequence of motions.

In the Claims:

1. (Amended) A motor vehicle roof comprising:
a fixed roof skin with a roof opening therein; and
front and rear displaceable covers for closing and partially clearing the roof opening;
wherein at least one of the covers is displaceable in a lengthwise direction of the motor vehicle roof into an open position and is swingable out of a closed position into a tilted ventilator position in which a respective front edge thereof is lowered around a respective rear edge;

wherein said at least one of the covers is longitudinally displaceable from said ventilator position into said open position in which said covers are vertically arranged with respect to each other, said rear edge being maintained substantially at a height of the fixed roof skin at least until a last section of the longitudinal displacement.

9. (Amended) The motor vehicle roof of claim 8, wherein the roof has a retractable sunshade covering [or shading] for the underside of the two covers.